



# Competition and Service (Utilities) Act 1992

## 1992 CHAPTER 43

### PART II

#### COMPETITION

##### *Water supply and sewerage services*

#### **44 Bulk supplies of water.**

The following sections shall be substituted for section 40 of the Water Industry Act 1991 (bulk supplies of water)—

##### **“40 Bulk supplies.**

- (1) Where, on the application of any qualifying person—
  - (a) it appears to the Director that it is necessary or expedient for the purposes of securing the efficient use of water resources, or the efficient supply of water, that the water undertaker specified in the application (“the supplier”) should give a supply of water in bulk to the applicant, and
  - (b) the Director is satisfied that the giving and taking of such a supply cannot be secured by agreement,the Director may by order require the supplier to give and the applicant to take such a supply for such period and on such terms and conditions as may be provided in the order.
- (2) In this section “qualifying person” means—
  - (a) a water undertaker; or
  - (b) a person who has made an application for an appointment or variation under section 8 above which has not been determined.

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*Changes to legislation: There are currently no known outstanding effects for the Competition and Service (Utilities) Act 1992, Section 44. (See end of Document for details)*

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- (3) Where the application is made by a person who is a qualifying person by virtue of subsection (2)(b) above, an order made under this section in response to that application shall be expressed not to come into force until the applicant becomes a water undertaker for the area specified in the order, or for an area which includes that area.
- (4) Subject to subsection (3) above, an order under this section shall have effect as an agreement between the supplier and the applicant.
- (5) The Director shall not make an order under this section unless he has first consulted the NRA.
- (6) In exercising his functions under this section, the Director shall have regard to the desirability of—
  - (a) facilitating effective competition within the water supply industry;
  - (b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.

#### **40A Variation and termination of bulk supply agreements.**

- (1) This section applies where, on the application of any party to a bulk supply agreement—
  - (a) it appears to the Director that it is necessary or expedient for the purpose of securing the efficient use of water resources, or the efficient supply of water, to vary the agreement or to terminate it, and
  - (b) the Director is satisfied that that cannot be achieved by agreement between the parties to the agreement.
- (2) The Director may by order—
  - (a) vary the agreement by—
    - (i) varying the period for which the supply of water is to be given; or
    - (ii) varying any of the terms or conditions on which that supply is to be given; or
  - (b) terminate the agreement.
- (3) Before making any order under this section the Director shall consult the NRA.
- (4) Where an order is made under this section the agreement concerned shall have effect subject to the provision made by the order or (as the case may be) shall cease to have effect.
- (5) An order under this section may require the payment of compensation by any party to the agreement to any other party.
- (6) The obligations of a water undertaker under subsection (5) above shall be enforceable under section 18 above by the Director.

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*Changes to legislation: There are currently no known outstanding effects for the Competition and Service (Utilities) Act 1992, Section 44. (See end of Document for details)*

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- (7) In exercising his functions under this section, the Director shall have regard to the expenses incurred by the supplier in complying with its obligations under the bulk supply agreement and to the desirability of—
- (a) facilitating effective competition within the water supply industry;
  - (b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.

- (8) In this section—

“bulk supply agreement” means an agreement between one or more water undertakers for the supply of water in bulk and includes—

- (a) an order under section 40 above which is deemed to be an agreement by virtue of subsection (4) of that section; and
- (b) any agreement which has been varied by order under this section; and

“supplier”, in relation to a bulk supply agreement, means any water undertaker which is required by the agreement to provide a bulk supply of water.”

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**Commencement Information**

- II** S. 44 wholly in force at 1.7.1992 see s. 56(2) and Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I.

**Changes to legislation:**

There are currently no known outstanding effects for the Competition and Service (Utilities) Act 1992, Section 44.